

AMENDED IN ASSEMBLY JUNE 3, 2009

AMENDED IN ASSEMBLY MAY 26, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Joint Resolution

No. 12

Introduced by Assembly Members ~~Block and Salas~~ Member ~~Block~~
(~~Coauthors: Assembly Members Bill Berryhill, Cook, Fuentes,~~
~~Gilmore, Jeffries, Lieu, Monning, Portantino, Price, and Silva~~)
(~~Coauthors: Senators DeSaulnier, Florez, and Wright~~)

March 27, 2009

Assembly Joint Resolution No. 12—Relative to taxation of corporate income sheltered in offshore tax haven jurisdictions.

LEGISLATIVE COUNSEL’S DIGEST

AJR 12, as amended, Block. Offshore tax haven jurisdictions.

This measure would request that the President and the Congress of the United States enact legislation that closes the corporate federal tax loopholes currently allowing the sheltering of income in offshore tax haven countries, and, instead, promotes transparency, cooperation, and tax compliance.

Fiscal committee: no.

1 WHEREAS, In bad economic times, states are forced to cut
2 essential services or raise taxes in order to balance their budgets,
3 and recapturing lost revenues otherwise due to a state is one
4 mechanism—~~in~~ by which government can reduce painful cuts
5 without raising new taxes; and

1 WHEREAS, A United States corporation is taxed on all of its
2 income, regardless of source, and is allowed a credit for any taxes
3 paid to a foreign country on its foreign-source income; and

4 WHEREAS, A United States corporation can operate globally
5 in foreign countries directly through a branch or indirectly through
6 its ownership in a foreign subsidiary; and

7 WHEREAS, Jurisdictions listed as “tax havens,” some of which
8 have no or nominal taxes, or financial privacy jurisdictions have
9 been identified on reports prepared by the Organization for
10 Economic Cooperation and Development (OECD), National
11 Bureau of Economic Research (NBER), and other sources; and

12 WHEREAS, The United States Department of the Treasury has
13 found that some United States corporations have aggressively
14 moved income to offshore jurisdictions to avoid United States
15 taxes because income that should properly be attributed to activities
16 in the United States is being attributed to those tax haven countries;
17 and

18 WHEREAS, The United States Senate Permanent Subcommittee
19 on Investigations and other federal governmental entities have
20 released findings regarding the growth of multinational
21 corporations’ use of tax haven countries to shelter income that
22 would otherwise be reported in the United States through use of
23 related companies with little or no substantial economic presence
24 or significant economic activity of the corporation in the tax haven
25 country; and

26 WHEREAS, President Obama has voiced his support for efforts
27 to combat offshore tax evasion and the United States Commissioner
28 of Internal Revenue has stated that the Internal Revenue Service
29 (IRS) has made closing this particular loophole a top priority; and

30 WHEREAS, United States Senator Carl Levin introduced the
31 Stop Tax Haven Abuse Act on March 2, 2009, to target offshore
32 tax abuses that deny the United States Treasury of an estimated
33 \$100 billion in revenue each year, reward tax dodgers using
34 offshore secrecy laws to hide legitimate taxable income from the
35 United States, and burden other United States taxpayers who
36 lawfully report their appropriately United States-sourced income;
37 and

38 WHEREAS, Some states in the United States have enacted
39 legislation to include the income and apportionment factors of

1 affiliated corporations doing business in or having income derived
2 from or attributed to a tax haven country; and

3 WHEREAS, California permits corporations that conduct
4 business in the state to elect to calculate their ~~Corporate Tax Law~~
5 *corporate tax* liability due to the state based on income only from
6 sources within the United States and, as identified by federal
7 officials, corporations are known to redirect income to foreign
8 subsidiaries located in offshore tax haven countries to hide those
9 corporations' true income and to avoid paying their fair share of
10 state tax; and

11 WHEREAS, The Franchise Tax Board of California estimates
12 that California's direct revenues lost to corporations sheltering
13 funds in tax haven countries that should appropriately be sourced
14 to activities in California is approximately \$130 million per year
15 and growing; and

16 WHEREAS, Other states in the United States are losing revenues
17 from the same offshore sheltering practices of corporations; now,
18 therefore, be it

19 *Resolved by the Assembly and the Senate of the State of*
20 *California, jointly,* That in order to reduce anticipated cuts to
21 services and ~~lessening~~ *lessen* the need for increased taxes, the
22 Legislature of the State of California respectfully requests the
23 President and the Congress of the United States to enact legislation
24 that closes the corporate federal tax loopholes currently allowing
25 the sheltering of income in offshore tax haven countries, and,
26 instead, promotes transparency, cooperation, and tax compliance;
27 and be it further

28 *Resolved,* That the Chief Clerk of the Assembly transmit copies
29 of this resolution to the President and the Vice President of the
30 United States, to the Speaker of the House of Representatives, to
31 the Majority Leader of the Senate, and to each Senator and
32 Representative from California in the Congress of the United
33 States.